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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,460	11/26/2003	Jeffrey Gerard Bourque	10541-1879	6213

7590 08/12/2004

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EXAMINER
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STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/724,460

Applicant(s)

BOURQUE ET AL.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/26/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

***Claim Rejections - 35 USC § 112***

Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "attached to the fixed panel" on line 3 of claim 1 render the claims indefinite because it is unclear if the applicant is claiming the subcombination of a closure panel assembly or the combination of a closure panel assembly and fixed panel. The preamble of claim 1 implies the subcombination while the positive recitation of the fixed panel implies the combination. Recitations such as "an upper portion received for relative sliding" on lines 6-7 of claim 1 render the claims indefinite because it is unclear what the applicant is attempting to set forth.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Bar in view of Kamezaki. O'Bar discloses a closure panel assembly for closing an opening 16 defined in a fixed panel 14, the assembly comprising an elongated guide rail 23 attached to the fixed panel, the guide rail including a channel (not numbered, but shown in figure 2), a sliding panel 18 having an upper portion and a lower portion, and a runner

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32 attached to the upper portion of the sliding panel, the runner including an upper portion 30 received for relative sliding movement within the channel of the guide rail, such that the sliding panel is movable between a closed position generally registered with the opening and an open position displaced in a first direction from the closed position, and a latch 38 operative to urge the lower portion of the sliding panel toward the fixed panel, whereupon the sliding panel pivots about the upper portion of the runner, wherein the guide rail includes an engagement portion 24 overhanging the upper portion of the sliding panel, the engagement portion engaging the upper portion of the sliding panel to limit relative pivoting movement of the lower portion of the sliding panel away from the fixed panel. O'Bar is silent concerning a seal.

However, Kamezaki discloses a closure panel assembly comprising a seal 6 which is compressed when the sliding panel 1 is moved into a closed position.

It would have been obvious to one of ordinary skill in the art to provide O'Bar with a seal, as taught by Kamezaki, to prevent air from moving through the opening when the movable panel is in the closed position.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Bar in view of Kamezaki as applied to claim 1 above, and further in view of Forquer. Forquer discloses a closure panel assembly comprising a guide rail 36 having an arcuate surface and an upper portion of a runner comprising a tubular sleeve 34 that is received within the channel.

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It would have been obvious to one of ordinary skill in the art to provide O'Bar, as modified above, with a guide rail, as taught by Forquer, to increase the longevity of the runner.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Makela, Bickner, Hurst, Waitekaites, Campisano and Heideman are cited for disclosing a pivoting sliding panel assembly. Freimark et al. is cited for disclosing a sliding window assembly for a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a stylized flourish extending from the end.

Gregory J. Strimbu  
Primary Examiner  
Art Unit 3634  
August 6, 2004